

1 HONORABLE RICHARD A. JONES
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CORTEZ DAUNDRE JONES,
11 Plaintiff,

12 v.
13 ENVIRONMENTAL PROTECTION
14 AGENCY,
15 Defendant.

Case No. 2:23-cv-1189-RAJ

ORDER

I. INTRODUCTION

This matter is before the Court on the objections to the Report and Recommendation dated August 21, 2023. Dkt. # 9. For the reasons below, the Court finds that the Complaint does not state a claim upon which relief may be granted and **DISMISSES** the Complaint.

II. BACKGROUND

From what the Court can ascertain, Plaintiff seeks monetary relief against the EPA. Dkt. # 1-1. He also seeks leave to proceed *in forma pauperis*. Magistrate Judge Tsuchida, in reviewing the complaint, recommended the assigned District Judge screen this matter to determine whether the Complaint states a claim upon which relief may be granted. Dkt. # 8 at 3.

III. DISCUSSION

The Court's authority to grant *in forma pauperis* status derives from 28 U.S.C. § 1915. Upon permitting a plaintiff to proceed *in forma pauperis*, the Court is subject to ORDER – 1

1 certain requirements set forth under 28 U.S.C. § 1915(e)(2)(B). Among these
 2 requirements is the Court's duty to dismiss the plaintiff's case if the Court determines
 3 that the complaint fails to state a claim upon which relief may be granted: "the court shall
 4 dismiss the case at any time if the court determines that . . . the action . . . (i) is frivolous
 5 or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks
 6 monetary relief against a defendant who is immune from such relief." 28 U.S.C.
 7 § 1915(e)(2)(B); *see also See Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000)
 8 ("[S]ection 1915(e) applies to all *in forma pauperis* complaints, not just those filed by
 9 prisoners.").

10 "The legal standard for dismissing a complaint for failure to state a claim under 28
 11 U.S.C. § 1915(e)(2)(B)(ii) parallels that used when ruling on dismissal under Federal
 12 Rule of Civil Procedure 12(b)(6)." *Day v. Florida*, No. 14-378-RSM, 2014 WL
 13 1412302, at *4 (W.D. Wash. Apr. 10, 2014) (citing *Lopez*, 203 F.3d at 1129). Rule
 14 12(b)(6) permits a court to dismiss a complaint for failure to state a claim. The rule
 15 requires the court to assume the truth of the complaint's factual allegations and credit all
 16 reasonable inferences arising from those allegations. *Sanders v. Brown*, 504 F.3d 903,
 17 910 (9th Cir. 2007). The plaintiff must point to factual allegations that "state a claim to
 18 relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 568 (2007).
 19 Where a plaintiff proceeds pro se, the court must construe the plaintiff's complaint
 20 liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir. 2011) (citing
 21 *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)).

22 Here, the complaint states "EPA cannot sign for anyone else [sic] property to
 23 claim." Dkt. 1-1 at 5. The remaining allegations that the EPA "did not get in contact"
 24 with the Plaintiff, and "fining multiple businesses in [his] name" do not set forth
 25 sufficient factual matter to state a claim to relief that is plausible on its face. *Ashcroft v.*
 26 *Iqbal*, 556 U.S. 662, 664 (2009). Labels and conclusions, lacking factual enhancement
 27 are insufficient. *Id.* The factual allegations must be "enough to raise a right to relief

1 above the speculative level." *Twombly*, 550 U.S. at 555. That standard has not been met.

2 **IV. CONCLUSION**

3 For the foregoing reasons the complaint is **DISMISSED** without prejudice. This
4 dismissal renders consideration of IFP status moot. The Clerk is directed to close this
5 case.

6 DATED this 26th day of September, 2023.

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The Honorable Richard A. Jones
United States District Court Judge